

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

GLOBAL PAYMENTS  
DIRECT, INC.

Plaintiff,

vs.

INTELLIGENT PAYMENTS,  
LLC and INTELLIGENT  
CONTACTS, INC.

Defendants.

and

INTELLIGENT PAYMENTS,  
LLC,

Third-Party Plaintiff,

vs.

123 IT SUPPORT, INC.;  
AVAIL SEO, INC.;  
CREATIVE ENTITY SETUP,  
INC.; DEBTOR PLUS  
SERVICE, INC.; DIVERSE  
SOLUTIONS, INC.; GLOBAL  
TAX & ACCOUNTING, INC.  
dba FORTUNE FINANCIAL  
SOLUTIONS; MATRIX  
DATA SYSTEMS, INC.;  
GUARDIAN

Civil Action No.  
1:14-CV-02634-SCJ

MANAGEMENT, INC.; RB  
CONSULTING SERVICES  
LLC dba  
CREDITSERVICES800616196  
6, dba LIFESTYLE  
ADVENTURES; THE OFFICE  
CART, INC. dba OWASCO  
MANAGEMENT; TOP SHELF  
MARKETING, INC.;  
BUSINESS SOLUTIONS LLC  
dba BUSINESS STRATEGIES;  
ADAM URBAN; WAYNE  
SAVAGE; JEFF STOGNER;  
KELLY COBERT;  
STEPHANIE AGLEDOR;  
JUDE ESPINOZA; JOSHUA  
PEREZ; RAYMOND PINTER;  
ALLENE PAIGE; ROB  
BRAUER; JUSTIN  
MATTHEWS; KIM  
ANDERSON; and RYAN  
HULT,

Third-Party Defendants.

**THIRD PARTY COMPLAINT OF INTELLIGENT PAYMENTS, LLC**

COME NOW Defendants Intelligent Payments, LLC (“Intelligent” or  
“Third-Party Plaintiff”), by and through its undersigned counsel, files this Third  
Party Complaint against Third-Party Defendants 123 IT SUPPORT, INC.; AVAIL  
SEO, INC.; CREATIVE ENTITY SETUP, INC.; DEBTOR PLUS SERVICE,

INC.; DIVERSE SOLUTIONS, INC.; GLOBAL TAX & ACCOUNTING, INC.  
d/b/a FORTUNE FINANCIAL SOLUTIONS; MATRIX DATA SYSTEMS, INC.;  
GUARDIAN MANAGEMENT, INC.; RB CONSULTING SERVICES LLC d/b/a  
CREDITSERVICES8006161966, d/b/a LIFESTYLE ADVENTURES; THE  
OFFICE CART, INC. d/b/a OWASCO MANAGEMENT; TOP SHELF  
MARKETING, INC.; BUSINESS SOLUTIONS LLC dba BUSINESS  
STRATEGIES; ADAM URBAN; WAYNE SAVAGE; JEFF STOGNER; KELLY  
COBERT; STEPHANIE AGLEDOR; JUDE ESPINOZA; JOSHUA PEREZ;  
RAYMOND PINTER; ALLENE PAIGE; ROB BRAUER; JUSTIN  
MATTHEWS; KIM ANDERSON; and RYAN HULT (collectively, the “Third-  
Party Defendants”) as follows:

### **PARTIES**

1.

Intelligent is a limited liability company organized and existing under the laws of the State of Nevada, with its principal place of business Plano, Texas. The constituent members of Intelligent are Jeffrey Kendall Mains and John Wesley Shutt. Mr. Mains is a citizen of the State of Texas and Mr. Shutt is a citizen of the State of Tennessee.

2.

Intelligent is an Independent Sales Organization (“ISO”) which markets merchant processing services. Intelligent was marketing the merchant processing services of Plaintiff Global Payments Direct, Inc. (“Global” or “Plaintiff”).

3.

123 IT Support, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1201 N. Orange Street, Wilmington, Delaware 19801. Adam Auburn is a resident of Marco Island, Florida and the guarantor of the merchant agreement.

4.

Avail SEO, Inc. is a corporation organized and existing under the laws of the State of Arizona with its principal place of business at 300 W. Osborn St., Phoenix, Arizona 85013. Wayne Savage is a resident of Avondale, Arizona and a guarantor of the merchant agreement. Jeff Stogner is a resident of Glendale, Arizona and an additional guarantor of the merchant agreement

5.

Creativity Entity Setup, Inc. is a corporation organized and existing under the laws of the State of Arizona with its principal place of business at 67 S. Higley Road, Suite 103-161, Gilbert, Arizona 85296. Kelly Cobert is a resident of Gilbert, Arizona

and the guarantor of the merchant agreement.

6.

Debtor Plus Service, Inc. is a corporation organized and existing under the laws of the State of Florida with its principal place of business at 20765 NW Miami Place, Miami, Florida 31169. Stephanie Agledor is a resident of Miami, Florida and the guarantor of the merchant agreement.

7.

Diverse Solutions, Inc. is a corporation organized and existing under the laws of the State of Arizona with its principal place of business at 123 E. Baseline Road, Tempe, Arizona 85283. Jude Espinoza is a resident of Phoenix, Arizona and the guarantor of the merchant agreement.

8.

Global Tax & Accounting, Inc. d/b/a Fortune Financial Solutions is a corporation organized and existing under the laws of the State of Arizona with its principal place of business at 8631 W. Union Hills Dr., Suite 201-A, Peoria, Arizona 85382. Joshua Perez is a resident of Tolleson, Arizona and the guarantor of the merchant agreement

9.

Matrix Data Systems, Inc. is a corporation organized and existing under the

laws of the State of Kentucky with its principal place of business at 1355 Bardstown Road, Louisville, Kentucky, 40204. Raymond Pinter is a resident of Louisville, Kentucky and the guarantor of the merchant agreement

10.

Guardian Management, Inc. is a corporation organized and existing under the laws of the State of Utah with its principal place of business at 7135 South Highland Drive, Suite 100, Salt Lake City, Utah, 34677. Allene Paige is a resident of Draper, Utah and the guarantor of the merchant agreement.

11.

RB Consulting Services LLC d/b/a CREDITSERVICES8006161966 is a limited liability company organized and existing under the laws of the State of Florida with its principal place of business at 4907 Augusta Ave, Oldsmar, Florida 34677. The constituent members of the LLC are Rob Brauer, a citizen of Florida, and Justin Mathews, a citizen of Arizona. Brauer is the guarantor of the merchant agreement.

12.

RB Consulting Services LLC d/b/a Lifestyle Adventures is a limited liability company organized and existing under the laws of the State of Florida with its principal place of business at 4907 Augusta Ave, Oldsmar, Florida 34677. The

constituent members of the LLC are Rob Brauer, a citizen of Florida, and Justin Mathews, a citizen of Arizona. Justin Mathews is the guarantor of the merchant agreement.

13.

The Office Cart, Inc. d/b/a Owasco Management is a corporation organized and existing under the laws of the State of Florida with its principal place of business at 7932 W. Sandlake Road, Orlando, Florida, 32819. Kim Anderson is a resident of Pompano Beach, Florida and the guarantor of the merchant agreement.

14.

Top Shelf Marketing, Inc. is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business at 291 River Road, Clifton, New Jersey, 07014. Ryan Hult is a resident of River Vale, New Jersey and the guarantor of the merchant agreement.

15.

Business Solutions LLC d/b/a Business Strategies is a limited liability company organized and existing under the laws of the State of Arizona with its principal place of business at 3310 W. Bell Road, Suite 267, Phoenix, Arizona 85053. The constituent member of the LLC is Jeff Stogner, a citizen of Arizona.

### **JURISDICTION AND VENUE**

16.

This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(a) because complete diversity exists between Intelligent, the Third-Party Defendants, and Global and the amount in controversy exceeds \$75,000.

17.

This Court possesses personal jurisdiction over the Third-Party Defendants because they consented to jurisdiction in Georgia in the merchant agreements that they executed with Global.

18.

Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims asserted herein occurred within this judicial district and because the Third-Party Defendants are subject to the personal jurisdiction of this Court.

### **FACTUAL BACKGROUND**

19.

As an ISO, Intelligent seeks out merchants that need credit and debit card processing. Intelligent solicits the merchants and boards them with a processor



and/or bank.

20.

Intelligent entered into a Merchant Services Agreement with Global to market Global's merchant processing services. A true and correct copy of said Agreement is attached to Global's Complaint in this action as Exhibit A.

21.

Per that Agreement, Intelligent did obtain and board several merchants with Global. The Third-Party Defendants are all merchants that Intelligent boarded with Global.

22.

Currently pending before the Court is the case of *Global Payments Direct, Inc. v. Intelligent Payments, Inc. et al*, case no. 1:14-CV-02634-SCJ and the counterclaim of *Intelligent Payments, Inc. v. Global Payments Direct, Inc.*

23.

In Global's Complaint, Global alleges that Intelligent owes it \$1.9 million, plus attorneys' fees and costs, because of excessive number of chargebacks incurred by the Third-Party Defendants.

24.

The large number of chargebacks is due, in part, to the acts and omissions of

the Third-Party Defendants, as well as Global. To the extent, if any, that Intelligent is found to be liable to Global, the Third-Party Defendants are derivatively liable to Intelligent for any such liability and Intelligent shall be entitled to full or partial indemnity from the Third-Party Defendants because they are responsible for the chargebacks.

**COUNT I:  
IMPLIED CONTRACTUAL INDEMNITY  
(Against all Defendants)**

25.

Intelligent incorporates the foregoing Paragraphs 1 through 24 as if fully set forth herein.

26.

Intelligent entered into a Merchant Services Agreement with Global to market Global's merchant processing services. A true and correct copy of said Agreement is attached to Global's Complaint as Exhibit A.

27.

Global has filed this action for breach of contract against Intelligent for \$1.9 million in chargebacks plus attorneys' fees and costs.

28.

Intelligent is informed and believes, and based upon such information and belief alleges, that Third- Party Defendants at all times mentioned were contractually obligated to Intelligent. As a result of this contractual relationship, an implied obligation to discharge foreseeable damages resulting from chargebacks as a result of fraudulent, deceitful and otherwise improper business practices.

29.

Intelligent is informed and believes, and based upon such information and belief alleges, that in the event Global is entitled to any recovery against Intelligent, the Third-Party Defendants are obligated to fully indemnify and hold harmless Intelligent from any such judgment and/or settlement.

30.

As a direct result of this implied contractual relationship and its breach by the Third-Party Defendants, Intelligent has employed attorneys and defended against Global's action, and will be compelled to satisfy any settlement and/or judgment obtained against Intelligent, all to Intelligent's damage in the sum or any such settlement and/or judgment obtained. Intelligent has now incurred, and will continue to incur, further costs and attorneys' fees in connection with the defense of Global's complaint.

31.

Intelligent alleges that it is entitled to full reimbursement (based on their respective share of each the Third-Party Defendants' chargebacks) from the Third-Party Defendants for any settlement and/or judgment and all costs and attorneys' fees incurred in the defense of the complaint and the prosecution of this Cross-Complaint.

**COUNT II:  
DECLARATORY RELIEF  
(Against all Defendants)**

32.

Intelligent incorporates the foregoing Paragraphs 1 through 31 as if fully set forth herein.

33.

A real controversy has arisen and now exists between Intelligent and Third-Party Defendants, and each of them, regarding their respective liabilities and/or the percentage of responsibility they bear for the alleged injuries and damages, if any, sustained by Global. Intelligent contends that if Global suffered or sustained any loss, injury or damage, the same was directly, legally, and/or proximately caused and contributed to by the primary, active, sole and direct responsibility, conduct and negligence of the Third-Party Defendants.

34.

Intelligent is informed and believes, and thereon alleges, that Third-Party Defendants are making contentions which are contrary to those set out by the Intelligent in the preceding paragraphs, and by reason of the foregoing, Intelligent requests this Court determine the actual proportion of fault, if any, of all parties to this litigation with respect to the occurrence from which this litigation arose, and to then make a declaration that Intelligent are entitled to be indemnified and defended by Third-Party Defendants.

WHEREFORE, Third-Party Plaintiff Intelligent Payments, LLC respectfully prays for the entry of judgment in its favor and against the Third-Party Defendants as follows:

A. As to Count I, for a judgment against Cross-Defendants in an amount in excess of \$75,000, declaring the Third-Party Defendants are contractually obligated to defend and indemnify Intelligent and to pay their costs of suit, including attorneys' fees;

B. Also as to Count I, if Judgment is entered against Intelligent in favor of Global, for a Judgment over and against the Third-Party Defendants, and each of them, partially indemnifying Intelligent on a comparative fault basis for the amount of said Judgment obtained and further indemnifying Intelligent for sums

expended in the defense of this action and the prosecution of this action, including Court costs, expenses of investigation and reasonable attorneys' fees; and

C. As to Count II, for a declaration of the rights, duties and obligations of the parties herein, and for a Judgment accordingly; on all Counts, such other and further relief as the Court may deem just and proper.

Respectfully submitted this 19th day of September, 2014,

/s/ Anthony E. Giardino

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*Attorneys for Defendants and  
Counterclaim Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2014, I electronically filed **INTELLIGENT PAYMENTS, LLC'S CROSS-COMPLAINT** with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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/s/ Anthony E. Giardino